# IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

## W.A.No.1427 of 2004

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AGAINST THE JUDGEMENT IN W.P.(C).NO.17492/2003 DATED 18/12/2003

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**APPELLANT**: PETITIONER:-

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SAUHARDA KURIES & LOANS (P) LTD.,
ELUVATHINGAL BUILDINGS, ERINJERY ANGADI, THRISSUR.

BY ADV. SRI.DILIP J. AKKARA

**RESPONDENTS**: RESPONDENTS:-

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1. UNION OF INDIA,
   REP. BY SECRETARY TO GOVERNMENT, MINISTRY OF FINANCE,
   DEPARTMENT OF ECONOMIC AFFAIRS (BANKING DIVISION),
   SOUTH BLOCK, NEW DELHI.

2. STATE OF KERALA,
   REP. BY SECRETARY TO GOVERNMENT,
   FINANCE DEPARTMENT, SECRETARIATE, TRIVANDRUM.

3. INSPECTOR GENERAL OF REGISTRATION,
   GOVERNMENT OF KERALA, TRIVANDRUM.

4. RESERVE BANK OF INDIA,
   REP. BY ASSISTANT GENERAL MANAGER,
   DEPARTMENT OF NON-BANKING SUPERVISION,
   CENTRAL OFFICE, 2ND FLOOR, WORLD TRADE CENTRE,
   CUFFE PARADE, COLLABA, MUMBAI-400 005.

R1 BY ASSISTANT SOLICITOR GENERAL OF INDIA
SRI.P.PARAMESWARAN NAIR.
R2 & R3 BY SENIOR GOVERNMENT PLEADER SMT.MEERA.
R4 BY STANDING COUNSEL SRI.P.JACOB VARGHESE.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

**H.L.Dattu,C.J. & K.T.Sankaran,J.**

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W.A.No.1427 of 2004

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Dated, this the 19th day of July 2007

**JUDGMENT**

**K.T.Sankaran,J.**

This Writ Appeal arises out of the judgment in W.P.(C). No.17492 of 2003. The reliefs prayed for in the writ petition were as follows:

> "A. Declare that sub-section 1(a) to Section 4 of the Kerala Chitties Act 1975 is unconstitutional and void;
>
> B. Issue a Writ of Mandamus or such other appropriate Writ, Order or Direction commanding the 1st respondent to exercise its powers under section 1(3) of the Chits Funds Act 1982 to notify the said Act within the State of Kerala forthwith; and
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> C. Grant such other or further reliefs as the petitioner may pray for and this Honourable Court may deem fit and proper under the circumstances of the case".

The Writ Petition was disposed of along with several other connected writ petitions as per judgment dated 18.12.2003.

2. The common judgment dated 18.12.2003 passed by the learned Single Judge was subject matter of appeal in *Dharmodayam Company* v. *Union of India* [2005 (3) KLT 332]. The Division Bench disposed of the Writ Appeals holding thus:

> "Under the above mentioned circumstances, we are inclined to set aside the judgment of the learned Single Judge and allow all these appeals. We hold that sub-s.(1)(a) of S.4 of the Kerala Chitties Act introduced by the Finance Act 7 of 2002 is discriminatory and violative of Art.19(1)(g) of the Constitution of India and beyond the legislative competence of the State Legislature and would not bind chitties started and conducted outside the State of Kerala and therefore declared void and unconstitutional".

3. We are in respectful agreement with the decision of the Division Bench in *Dharmodayam Company* case (supra). Following the aforesaid decision, we dispose of this Writ Appeal in terms of the said judgment.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-